RECORD OF DECISION

Kane Springs Valley
Groundwater Development Project

Cooperating Agencies:
U.S. Fish and Wildlife Service
Nevada Department of Wildlife
Moapa Valley Water District

U.S. DEPARTMENT OF INTERIOR (USDI)

BUREAU OF LAND MANAGEMENT
ELY DISTRICT OFFICE
NVN79742

19 November 2008

I. KANE SPINGS WATER DEVELOPMENT PROJECT DECISION

DECISION: This document constitutes the Record of Decision (ROD) of the Department of the Interior (DOI) and the Bureau of Land Management (BLM) for the Kane Springs Valley Groundwater Development Project. This ROD is prepared in accordance with the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and other applicable Federal laws and regulations. The Kane Springs Valley Groundwater Development Project EIS evaluated the BLM action (issuance of ROWs) to the Lincoln County Water District (LCWD), the Lincoln County Power District #1 (LCPD), and Lincoln County Telephone (LCT) and the potential environmental effects that would result from implementation of the Proposed Action (construction and operation of the Proposed Action). Subsequent to completion of the FEIS, the LCWD requested, and BLM approved, a proposal to grant a single right-of-way (ROW) to the LCWD for all facilities necessary to complete the project.

After extensive environmental analysis, consideration of public comments, and application of pertinent Federal laws and policies, it is the decision of the BLM to grant a ROW to the LCWD for construction, operation, maintenance and termination of the Kane Springs Valley Groundwater Development Project. The ROW is on the alignment identified by the Kane Springs Valley Ground Water Development Project Final Environmental Impact Statement (FEIS) as the Proposed Action published on February 8, 2008. This is the environmentally preferable alternative of the BLM. All mitigating measures identified in the EIS will be applied.

ROW GRANTS: LCWD, in cooperation with LCPD and LCT, intends to construct groundwater facilities and ancillary utility infrastructure designed to pump and convey up to 5,000 AFY of groundwater for delivery to the northern portion of the Coyote Spring Valley. The project facilities would be located in southern Lincoln County, Nevada, within or immediately adjacent to the 2,640-foot wide utility corridor established by the Lincoln County Conservation, Recreation, and Development Act (LCCRDA) of 2004 (Public Law 108-424). The ROW to LCWD for the Proposed Action would be granted in perpetuity. Attachment 4 shows the general location of the project within southern Lincoln County, Nevada. Primary components of the Proposed Action include:

Ground Water Production Facilities

- Up to seven groundwater production wells[1] (well field)
- Monitoring wells[1]
- Forebay water storage tank (up to 50,000 gallons)

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[1] A monitoring well (referred to as KMW-1) was completed in 2005 to assess the hydrogeology of Kane Springs Valley, obtain data to support the drilling of a water production well and to assist in revising the preliminary production well design. Following the construction and development of KMW-1, a production well (referred to as KPW-1) was constructed in late 2005 immediately adjacent to KMW-1.

- Water collection pipeline from each well to main transmission pipeline (up to 9.4 miles - actual length and diameter depending on final well location and flow rates)
- Water Transmission Pipeline 3.8 miles
- Terminal water storage tank (up to 700,000 gallons, located on private land)

Electric Utility Facilities

- 138/69 kilovolt (kV) transmission line (up to 3 miles on private lands; 10.7 miles on federally managed lands).
- Emrys Jones Substation (located on private land)
- Up to seven well substations adjacent to each groundwater production well

Communication Facilities

- Telemetry system/fiber optic lines

The LCWD ROW will consist of:

1. 9.4 miles of collection pipeline which will be located within a 60-foot construction easement (30-foot permanent easement) in areas where the pipeline parallels Kane Springs Road. The collection pipeline will be located in a 75-foot construction easement (60-foot permanent) where cross-country construction is required.

2. 3.8 miles of transmission pipeline which will be located within a 60-foot construction easement (30-foot permanent easement) in areas where it parallels Kane Springs Road. The transmission pipeline will be located in a 75-foot construction easement (60-foot permanent) where cross-country construction is required. The 24-inch diameter ductile iron pipeline will contain all appurtenant valves, thrust restraint, and cathodic protection.

3. From the new Emrys Jones substation, a 69-kV transmission line routed in general linear proximity to Kane Springs Road to LCWD's planned well field, a distance of approximately 10.7 miles. At each well location, a 69-kV to 4.16-kV step-down substation will be constructed to serve the planned pump motor and ancillary equipment. The electric transmission lines would typically parallel the water transmission pipeline and share the pipeline's temporary construction easement. In areas of cross-country travel, the electric transmission lines would be constructed within a 100-foot wide easement. After construction, the electric transmission lines would require a 100-foot wide permanent easement.

4. The fiber optic line will be within the same trench as the LCWD pipeline ROW and will have a 10-foot wide permanent easement.

LCWD will be responsible for constructing and operating the groundwater production/delivery system, electrical and fiber optic facilities under BLM ROW serial

number N79742. Construction activities would occur in three phases, with 1 to 3 years between phases. Phases would correspond to demand for water and issuance of permits for additional water rights. Construction would begin at the southwest end of the project area (near the intersection of U.S. Highway 93 [Highway 93] and Kane Springs Road) and continue to the northeast (generally following Kane Springs Road). Construction of Phase 1 would begin upon acquisition of necessary permits, approval, and grants and would occur over a 90 to180-day period. Phase 2 and Phase 3 construction would be completed in 30 to 60 days at 1 to 3-year intervals after completion of Phase 1, and would correspond to the demand for water and the issuance of future water rights.

PROTECTION MEASURES: The ROW, Plan of Development (POD), and any other required approvals will be subject to agency (BLM, USFWS, NDOW) stipulations and performance standards described and referenced in the mitigation measures section (Attachment 3) of this document and the Biological Opinion.

Prior to any construction or other surface disturbance associated with the ROW grant, the Authorized Officer or delegated agency representative will issue a written Notice to Proceed (NTP). Any NTP shall authorize construction or use only as therein expressly stated and only for the particular location, segment, area, or use described. The LCWD is required to provide the BLM a Plan of Development (POD) that details how the project facilities will be constructed. The final POD will become part of the ROW grant. The final POD will be completed and approved by the BLM prior to the issuance of the NTP for Federal lands. In addition, the disturbance acreages reflected in the final POD will be used to calculate the desert tortoise remuneration fee, which will be provided prior to the issuance of any NTP and managed in accordance with Hastey et.al. (1991). This will implement Reasonable and Prudent Measure 4(d) of the Biological Opinion.

II. MANAGEMENT CONSIDERATIONS AND DECISION RATIONALE

PURPOSE AND NEED: The purpose of the Proposed Action is to provide ROW access for transporting water resources across areas of federal land. The Proposed Action would assist in meeting a portion of the water demands of Lincoln County and is a component of Lincoln County's Water Plan. Extensive development is underway in the adjacent Coyote Springs Valley. Currently, 16,300 AFY of groundwater has been permitted within the Coyote Springs Basin for a variety of uses. Groundwater from Kane Springs Valley will be used to supplement these uses which include municipal, agricultural and industrial applications.

A. **BIOLOGICAL OPINION:** Attached to this decision (Attachment 1) is documentation of the U.S. Fish and Wildlife Service (USFWS) review of the Biological Assessment (BA), (final revision December 6, 2007), expressed in the final Biological Opinion. The Biological Opinion found that potential effects to listed species from the project facilities were adequately addressed with applicant

committed measures in the BA and the DEIS. Based on these commitments, the USFWS has determined that the project, as proposed and analyzed, is not likely to jeopardize the continued existence of the threatened desert tortoise (Mojave population) or the endangered Moapa Dace. The Biological Opinion determined that the level of anticipated take is not likely to result in jeopardy to the desert tortoise and the Moapa Dace. These determinations are based in part on the implementation of conservation measures detailed in the BA for this project. Upon receiving authorization from the Nevada State Engineer to appropriate more than 1,000 and up to 5,000 acre-feet per year of groundwater from the Kane Springs Valley for use in Coyote Springs Valley, the USFWS will reinitiate consultation for the Project pursuant to Section 7 of the ESA; and if necessary, LCWD will apply for an incidental take permit under Section 10(a)(1)(B) of the ESA to cover any take of the Moapa dace that may occur due to the pumping and transfer of such additional groundwater.

B. The BLM conditions this decision to retain jurisdiction should Section 7 consultation need to be re-initiated.

Further information about specific species impacts can be found in Chapter 3.5 of the Final EIS.

HISTORIC PRESERVATION: An intensive pedestrian archeological inventory (Class III survey) was conducted for the Proposed Action in November of 2006 (HRA and ARCADIS 2007). The survey corridor encompassed a 300-foot wide area (725 acres) area of potential effect (APE) that included: 1) the 60-foot wide permanent ROW, 2) the temporary 75-foot wide construction ROW, and 3) an area of approximately 100 feet by 200 feet that would be needed during construction for equipment storage and ancillary features. The Class III survey identified no new sites and 61 isolated occurrences within the APE. The isolated occurrences consisted of chipped stone debitage/debris from tested obsidian, chert and quartzite cobbles. Of the three previously recorded non-eligible National Register properties identified in the project APE, only old historic Highway 93 (26LN3723) was located during the Class III survey. The sites previously identified as prehistoric artifact scatters (26LN2448 and 26LN4001) were not located, and may be either obliterated or buried as a result of erosional processes, or they may not have been accurately plotted when first recorded.

The State Historic Preservation Office, through the State Clearinghouse, supports the FEIS.

NATIVE AMERICAN CONCERNS: Consultation has been undertaken and is ongoing with eight (8) Native American tribes that might have had traditional cultural interests within the project area. Three tribes did not respond. The Moapa Paiute and the Las Vegas Paiute Tribe did not provide input regarding any concerns about the Proposed Action, but did participate in a field tour and wished to be kept informed of the project; the Paiute Indian Tribe of Utah had no interest in the project; and the Ely Shoshone Tribe and

the Duckwater Shoshone wished to continue consultations for the Proposed Action directly with the BLM.

OTHER ENVIRONMENTAL IMPACTS: Adverse environmental impacts resulting from the project would be short-term. Impacts studied in the Final EIS include the following: air quality, noise, topography, mineral resources, surface water quality, water resources, wetlands, soils, prime and unique farmland, forestry, livestock grazing, wildlife, fisheries, threatened and endangered species, cultural resources, Native American religious values, paleontological resources, visual resources, solid waste facilities, and socioeconomic conditions.

The discussion of these resources and impacts is located in Chapter 3 and 4 of the Final EIS. Environmental protection measures found in Appendix C of the Final EIS (Attachment 3) will be incorporated into the final POD. A Notice to Proceed will be issued for construction once the POD is approved by the BLM.

BLM PLAN CONFORMANCE: This project was found, through a consistency review at the time of the ROW application, to be in conformance with the Caliente Management Framework Plan (MFP). The project is in conformance with the Ely District Resource Management Plan (RMP) which was approved on August 20, 2008.

III. KANE SPRINGS VALLEY GROUNDWATER DEVELOPMENT PROJECT AUTHORIZING SIGNATURE

As the Authorized Officer, in accordance with Title III of the Lincoln County Conservation, Recreation, and Development Act of 2004, Title V of the Federal Land Policy and Management Act and the regulations under Title 43, Code of Federal Regulations, Part 2800, this document constitutes my Record of Decision for the Kane Springs Valley Groundwater Development Project. Specifically, this ROD applies to the Lincoln County Water District, BLM ROW application N-79742. This ROD and ROW grant constitutes a Final Decision of the BLM for the proposed project.

John F. Ruhs
Ely District Manager

19 November 2008
Date

IV. BACKGROUND: The Bureau of Land Management (BLM) was the lead agency for preparation of the Environmental Impact Statement (EIS). The U.S. Fish and Wildlife Service (FWS), the Nevada Department of Wildlife (NDOW) and the Moapa Valley Water District were cooperating agencies. Under the direction of these agencies, an EIS was prepared to evaluate the direct, indirect, and cumulative environmental consequences of approving or issuing rights-of-way (ROW) grants across Federal lands.

Pursuant to this ROD, the BLM will issue a ROW grant across Federal lands in accordance with 43 Code of Federal Regulations (CFR) Subpart 2800. This subpart describes the application filing content, processing, and decision steps in granting a ROW under these regulations. An additional authority was Title III of the Lincoln County Conservation Recreation, and Development Act (LCCRDA) of 2004 (Public Law 108-424) which established a 2,640 foot wide utility corridor for the project on BLM lands and mandated that the LCWD ROW would be perpetual and rent free.

LCWD Background

LCWD filed a right-of-way (ROW) application with the Bureau of Land Management in 2005 to construct and operate a water development and transportation system on Federal lands. In addition to the Federal lands, LCWD proposes to utilize ROW across private lands in the Coyote Springs Investment property. LCWD, in cooperation with the Lincoln County Power District (LCPD) and Lincoln County Telephone (LCT), intends to construct groundwater facilities and ancillary utility infrastructure designed to pump and convey up to 5,000 AFY of groundwater for delivery to the northern portion of the Coyote Spring Valley. The project facilities would be located in southern Lincoln County, Nevada, within or immediately adjacent to the 2,640-foot wide utility corridor established by the LCCRDA.

V. PURPOSE AND NEED: The purpose of the Project is to provide groundwater to the Coyote Spring Valley area of southern Lincoln County.

The LCWD is a public agency responsible for coordinating regional water supply issues, acquiring resources, and developing water delivery facilities in Lincoln County. LCWD holds groundwater rights and applications in Lincoln County and will develop these resources to meet increasing water demands and improve the reliability of water supply systems in the region.

VI. ALTERNATIVES CONSIDERED (INCLUDING BLM-PREFERRED ALTERNATIVE)

PROPOSED ACTION

The LCWD (Applicant), in cooperation with the LCPD and LCT, is proposing to construct infrastructure required to pump and convey groundwater from the Kane Springs Valley Hydrographic Basin to the LCWD Service Territory in the Coyote Spring Valley in southern Lincoln County, Nevada. Most of the proposed facilities would be located along or near the Kane Springs Road ROW, within the 2,640-foot wide LCCRDA utility corridor. A production well (referred to as KPW-1) and monitoring well (referred to as KMW-1) were constructed in 2005 under a separate ROW application - BLM Serial Number NVN-079630. The monitoring well was constructed to assist with the hydrogeology assessment of the Kane Springs Valley Hydrographic Basin and to obtain data to support the drilling of water production wells. The two wells are located next to each other, south of Kane Springs Road, approximately 7 miles northeast of Highway 93.

ALTERNATIVES ANALYZED

ALTERNATIVE 1 – POWER LINE ALIGNMENT: Cross-country construction across undisturbed land would be required under Alternative 1. To construct the 138 kV overhead transmission line and install the buried fiber optic line, a permanent access road (up to 2.7 miles) would be constructed east of Highway 93 to the Emrys Jones Substation. The process for constructing the 138 kV transmission line would be the same as that described under the Proposed Action. The fiber optic line would be buried within the permitted ROW adjacent to the overhead transmission line.

The electric transmission line and fiber optic line would be constructed within a 100-foot wide construction easement. Additional temporary work areas may be required in areas of rough or steep terrain, wash crossings and any areas identified as containing sensitive environmental resources. After construction, the access road between Highway 93 and the Emrys Jones Substation would be maintained by the LCPD for routine maintenance activities. All disturbed lands would be located within the designated LCCRDA utility corridor. Portions of the road would cross area drainages. This would involve the potential installation of drainage structures. To the maximum extent possible, drainages would be crossed at grade. Culverts would be installed in areas where these crossing are not feasible. Preconstruction clearances would be required prior to any ground-disturbing activities.

NO ACTION ALTERNATIVE: The No Action Alternative represents the status quo — not approving or implementing the Proposed Action or Alternative 1. Analysis of the No Action Alternative is required by NEPA guidelines. Under the No Action Alternative, BLM would not approve LCWD's ROW application as submitted, and the Proposed Action

would not be constructed on federally managed lands. The Nevada State Engineer has permitted LCWD to pump 1,000 AFY of groundwater from the Kane Springs Valley Hydrographic Basin and transfer said water to Coyote Springs Valley. Selection of the No Action Alternative would not preclude LCWD from pumping their permitted water rights in accordance with the Nevada State Engineer's Ruling, nor would it preclude another entity from constructing other projects within the same corridor, subject to approval by the BLM.

ALTERNATIVES CONSIDERED BUT ELIMINATED FROM DETAILED ANALYSIS:

Terminal Storage Tank on Public Lands

This alternative would entail constructing the terminal storage tank on public lands instead of private lands, as proposed under the Proposed Action. This alternative was eliminated from further analysis in the EIS because it provides no environmental advantage or benefit over the Proposed Action. Private lands are available for the construction of the tank.

Underground Electrical Transmission and Distribution Lines

Selection of this alternative would require the transmission line and distribution lines to be buried parallel to the water transmission and collection pipelines and fiber optic line from the production wells to the terminal storage tank. The transmission line would also be buried from the terminal storage tank to Highway 93. This alternative was eliminated from further analysis in the EIS because, while it is technically feasible to bury the 138 kV and 69 kV/4.16 kV transmission lines, it is not cost-effective for construction and maintenance. The cost of burying transmission lines is estimated to be 7.5 to 12 times higher than traditional overhead construction for a given project. Also, it is common for transmission lines within road ROWs to be constructed aboveground to minimize infrastructure constraints within public easements (e.g., installation of public works such as water pipeline and sewer).

Aboveground Water Transmission Pipeline

This alternative would involve constructing the water transmission pipeline aboveground (over a distance of approximately 3.8 miles). This alternative was eliminated from further analysis in the EIS because it provides no environmental advantage over the Proposed Action or other action alternative analyzed. Constructing the water transmission pipeline aboveground would result in greater visual impacts and may act as a barrier to wildlife. The potential for vandalism and road safety issues would also be greater. Also, it is standard operating procedure for water transmission pipelines to be buried within road ROWs to minimize infrastructure constraints within a public easement.

BLM-PREFERRED ALTERNATIVE: The BLM Preferred Alternative is the Proposed Action.

VII. CONSULTATION

U.S. FISH AND WILDLIFE SERVICE (USFWS) CONSULTATION

The USFWS issued a *Final Biological Opinion* (BO) for the Kane Springs Groundwater Development Project on October 29, 2008. It is attached (Attachment 1) to this document. In the *Final BO*, the USFWS concluded that the proposed water development project will not jeopardize the continued existence of any Federally-listed species and their critical habitat.

NEVADA STATE HISTORIC PRESERVATION OFFICER (SHPO) CONSULTATION

Cultural resources have been addressed in accordance with Section 106 of the National Historic Preservation Act (NHPA) and implementing regulation under 36 CFR 800. The State Historic Preservation Office, through the State Clearinghouse, supports the FEIS (Attachment 2). A Programmatic Agreement was not prepared for this project.

OTHER CONSULTATION

Federal and state agencies as well as Native American Tribes were contacted individually to gather input for the EIS. Other resource management agencies were consulted at the federal and state levels to identify common concerns related to the Proposed Action or Alternatives. In addition, the USGS has provided technical guidance related to water resources issues.

PUBLIC INVOLVEMENT

The BLM and its cooperating agencies, the USFWS, NDOW and the Moapa Water District, have involved the public throughout the NEPA process for the LCWD water development project. Public involvement began with a round of scoping meetings in mid-April 2006. The public was provided a 30-day scoping period to disclose potential issues and concerns associated with the Proposed Action. The BLM collected stakeholder comments at public meetings as well as comments sent via fax or mail. Six public meetings were held during the public scoping period. These meetings were held in Caliente, Alamo, Mesquite, Las Vegas, Reno and Baker with a total attendance among all meetings of 70 people. The scoping period ended on May 1, 2006. Information obtained by the agencies during public scoping was combined with issues identified by the BLM and subsequently utilized in defining the scope of this EIS.

The 60-day comment period for public review of the Draft EIS began with the publication of the Notice of Availability in the Federal Register on June 22, 2007. The BLM distributed press releases announcing the dates, locations, and times of the public meetings to local and

regional print and broadcast media. The Draft EIS was distributed to individuals and agencies that requested copies and posted on the BLM's website. Four public meetings were held during the public comment period (June 22 to August 20, 2007) to receive comments on the Draft EIS. These meetings were held in Carson City, Pioche, Alamo, and Las Vegas with a total attendance of 13 persons.

During the Draft EIS 60-day public comment period, the BLM received 19 comment documents (i.e. letters, emails, faxes) from individuals, private companies, and federal and state agencies commenting on the Draft EIS. Each comment letter was assigned a reference number, and each comment was identified with a number. To respond to comments, changes or additions have been made to the Final EIS, where appropriate.

Comments were received from four entities on the Final EIS. All comments that were received during the EIS process were considered in the preparation of the Draft and Final EIS documents and in this Record of Decision.

ATTACHMENTS

1. U.S. FISH AND WILDLIFE SERVICE BIOLOGICAL OPINION

2. NEVADA SHPO CONCURRENCE

3. MITIGATION MEASURES

   - Best Management Practices (Ely District RMP, 2008)
   - Standard Stipulations (Ely District)
   - Applicant Proposed Environmental Protection Measures (Kane Springs EIS, Appendix C)
   - Special Stipulations (Kane Springs EIS)

4. LOCATION MAP